

Introduced by Senator Figueroa

(Coauthors: Senators Johannessen and Polanco)

(Coauthors: Assembly Members Aanestad, Correa, and Thomson)

February 22, 2002

An act to amend Sections ~~2460~~ 800, 805, 805.5, 2460, 2486, 2496, 2499.5, 2602, 2607.5, 2620.7, 2660, 3010, 3013, 3014.5, 3710, ~~and~~ 3716 ~~of~~, 3717, 3718, 3735.3, 3740, 3750.5, 3753.1, 3758.6, 3761, 3770, 3774, and 3777 of, to add Sections 3010.1, 3014.6, 3025.6, 3751.1, 3766, 3767, and 3768 to, and to repeal Sections 3712.5, 3750.6, and 3775.1 of, the Business and Professions Code, and to amend Section 123105 of the Health and Safety Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1955, as amended, Figueroa. Medical boards.

(1) Existing law provides for the licensure and regulation of podiatric of medicine by the Board of Podiatric Medicine. Existing law terminates the existence of the board on July 1, 2003.

This bill would extend the existence of the board to July 1, 2007.

Existing law requires, for certification as a podiatrist, that an applicant meet specified examination requirements. Existing law also requires the board to impose specified continuing education requirements, including an examination requirement.

The bill would revise these examination requirements.

Existing law provides for a biennial certificate renewal fee of \$900 until January 1, 2004, and reduces the fee to \$800 as of that date.

This bill would continue the \$900 biennial certification renewal fee until January 1, 2006, and would reduce it to \$800 as of that date.

Moneys from these fees are deposited into the Contingent Fund of the Medical Board of California, which is a continuously appropriated fund. Because this bill would increase the amount of money deposited into this fund, it would make an appropriation.

(2) Existing law provides for the licensing and regulation of the practice of optometry by the State Board of Optometry and provides for the employment of an executive officer, as specified. The existence of the board and the executive officer will be terminated on July 1, 2003.

This bill would instead terminate the existence of the board and the executive officer on January 1, 2003, and, as of that date, would provide for the formation of a new board and employment of a new executive officer both of which would be terminated on July 1, 2005. The bill would grant the new board certain authority parallel with the authority of the previous board. The bill would also provide for the appointment and staggering of terms of board members, as specified.

The bill would authorize the board adopt regulations clarifying the level of training and level of supervision of assistants to optometrists.

(3) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California and provides for the employment of an executive officer, as specified. The existence of the board and the executive officer will be terminated July 1, 2003.

This bill would extend the existence of the board and the executive officer to July 1, 2007.

Existing law authorizes the board or appointees of the board to inspect specified reports and records regarding respiratory care, treatment, services, or staff, and requires an employer to report specified employee information to the board.

This bill would revise the inspection requirements to include, in certain instances, copying records, and would provide that the failure to provide certain documents and records, as specified, is punishable by an administrative fine of up to \$10,000 per violation.

Moneys from these fines would be deposited into the Respiratory Care Fund, which is a continuously appropriated fund. Because this bill would increase the amount of money deposited into this fund, it would make an appropriation.

Existing law requires applicants for licensure to provide verification of, and to meet, specified education requirements, and requires



respiratory therapy schools to meet certain requirements. Existing law prohibits certain fees imposed on respiratory therapy schools from exceeding specified limits.

This bill would revise the educational requirements. The bill would also revise the requirements for respiratory therapy schools, and would delete the maximum limit on the fees imposed on respiratory therapy schools.

Existing law authorizes the board to deny, suspend, or revoke the license of an applicant or license holder who has committed certain actions, including using alcoholic beverages in a dangerous or injurious manner, as specified.

This bill would require instead that, in order for the board to take this action with regard to alcohol use, the person have applied for employment or worked in any health care profession or environment while under the influence of alcohol.

Existing law authorizes a person whose license has been revoked or suspended, or who has been placed on probation to petition the board for reinstatement, modification, or termination of probation, if certain conditions are met.

This bill would authorize the holder of a conditional or probationary license issued prior to February 1, 2002, on specified grounds, to submit a petition to terminate probation prior to December 31, 2003.

Existing law authorizes an administrative disciplinary decision imposing terms of probation to require the licensee probationer pay the monetary costs associated with monitoring the probation.

This bill would prohibit the renewal or reinstatement of the license of a licensee who has failed to pay all of these costs once he or she has served the term of probation.

Existing law requires the board to punish a person representing himself as a respiratory care practitioner without a license by the issuance of a citation and the assessment of an administrative fine of \$1,000.

This bill would revise and expand this requirement. The board would authorize a person with a citation to appeal the board within a certain time period of service of the citation, and would provide procedures where by a person could contest the citation.

Moneys from the fines are deposited into the Respiratory Care Fund, which is a continuously appropriated fund. Because this bill would increase and expand moneys derived from fines that is deposited into this fund, it would make an appropriation.

The bill would also make technical changes to the provisions governing respiratory care practitioners and would delete an obsolete reporting requirement imposed on the board.

(4) Existing law provides for the licensure and regulation of physical therapists and physical therapy assistants by the Physical Therapy Board of California. The existence of the board would terminate July 1, 2003.

This bill would extend the existence of the board to July 1, 2007.

Existing law provides for specified boards, not including the Physical Therapy Board of California, to keep certain records relating to unprofessional conduct, civil actions, and complaints against persons licensed or certified by the boards.

This bill would add the Physical Therapy Board of California to the list of boards to which these provisions apply.

Existing law, with regard to specified healing arts professionals, requires a peer review body and a chief executive officer or administrator of a licensed health care facility or clinic to file a peer review report with the relevant agency if an action of the peer review body adversely impacts a licentiate's staff privileges or membership, as specified. Existing law requires a health facility, health care service plan, medical care foundation, or the medical staff of an institution, prior to granting or renewing staff privileges, to request a report from the appropriate agency to determine if a peer review report has been made. Failure to request a report is a crime and subjects a person to a fine.

This bill would add physical therapists to the list of licentiates who are subject to these provisions and would thereby expand the number of people subject to the applicable fines.

Moneys from fines imposed are deposited into the Physical Therapy Fund, which is a continuously appropriated fund. Because this bill would increase the amount of moneys deposited into this fund, it would make an appropriation.

Because a violation of the requirement regarding requesting a peer review report would be a crime, this bill would create a state-mandated local program.

Existing law requires a physical therapist to document specified patient information.

This bill would additionally require a physical therapist to document the care actually provided and to legibly sign the patient record.



Existing law requires certain health care professionals to provide patient record access to patients, as specified.

This bill would add physical therapists to the list of health care professionals subject to this requirement.

Existing law provides the authority for the board to take disciplinary action for specified actions by a licensee.

This bill would characterize these acts as unprofessional conduct, would expand the acts, and would make both physical therapists and physical therapy assistants subject to disciplinary action for all of the acts listed.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law regulating the practice of the healing arts establishes the California Board of Podiatric Medicine, the Physical Therapy Board of California, and the Respiratory Care Board of California. The existence of these boards will be terminated July 1, 2003.~~

~~This bill would extend the existence of the boards to an unspecified date.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 800 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 800. (a) The Medical Board of California, the Board of
- 4 Psychology, the Dental Board of California, the Osteopathic
- 5 Medical Board of California, the Board of Chiropractic
- 6 Examiners, the California Board of Registered Nursing, the Board
- 7 of Vocational Nursing and Psychiatric Technicians, the State
- 8 Board of Optometry, the Veterinary Medical Board, the Board of
- 9 Behavioral Sciences, *the Physical Therapy Board of California,*
- 10 and the State Board of Pharmacy shall each separately create and
- 11 maintain a central file of the names of all persons who hold a
- 12 license, certificate, or similar authority from that board. Each
- 13 central file shall be created and maintained to provide an

1 individual historical record for each licensee with respect to (1)
2 any conviction of a crime in this or any other state ~~which~~ *that*
3 constitutes unprofessional conduct pursuant to the reporting
4 requirements of Section 803; (2) any judgment or settlement
5 requiring the licensee or his or her insurer, to pay any amount of
6 damages in excess of three thousand dollars (\$3,000) for any claim
7 that injury or death was proximately caused by the licensee's
8 negligence, error or omission in practice, or by rendering
9 unauthorized professional services, pursuant to the reporting
10 requirements of Section 801 or 802; (3) any public complaints for
11 which provision is hereinafter made, pursuant to subdivision (b)
12 of this section; (4) disciplinary information reported pursuant to
13 Section 805.

14 (b) Each board shall prescribe and promulgate forms on which
15 members of the public and other licensees or certificate holders
16 may file written complaints to the board alleging any act of
17 misconduct in, or connected with, the performance of professional
18 services by the licensee.

19 If a board, or division thereof, a committee, or a panel has failed
20 to act upon a complaint or report within five years, or has found
21 that the complaint or report is without merit, the central file shall
22 be purged of information relating to the complaint or report.

23 Notwithstanding this subdivision, the Board of Psychology, the
24 Board of Behavioral Sciences, and the Respiratory Care Board of
25 California shall maintain complaints or reports as long as each
26 board deems necessary.

27 (c) The contents of any central file which are not public records
28 under any other provision of law shall be confidential except that
29 the licensee involved, or his or her counsel or representative, shall
30 have the right to inspect and have copies made of his or her
31 complete file except for the provision that may disclose the
32 identity of an information source. For the purposes of this section,
33 a board may protect an information source by providing a copy of
34 the material with only those deletions necessary to protect the
35 identity of the source or by providing a comprehensive summary
36 of the substance of the material. Whichever method is used, the
37 board shall ensure that full disclosure is made to the subject of any
38 personal information that could reasonably in any way reflect or
39 convey anything detrimental, disparaging, or threatening to a
40 licensee's reputation, rights, benefits, privileges, or qualifications,

1 or be used by a board to make a determination that would affect a
2 licensee's rights, benefits, privileges, or qualifications.

3 The licensee may, but is not required to, submit any additional
4 exculpatory or explanatory statement or other information which
5 the board shall include in the central file.

6 Each board may permit any law enforcement or regulatory
7 agency when required for an investigation of unlawful activity or
8 for licensing, certification, or regulatory purposes to inspect and
9 have copies made of that licensee's file, unless the disclosure is
10 otherwise prohibited by law.

11 These disclosures shall effect no change in the confidential
12 status of these records.

13 *SEC. 2. Section 805 of the Business and Professions Code is*
14 *amended to read:*

15 805. (a) As used in this section, the following terms have the
16 following definitions:

17 (1) "Peer review body" includes:

18 (A) A medical or professional staff of any health care facility
19 or clinic licensed under Division 2 (commencing with Section
20 1200) of the Health and Safety Code or of a facility certified to
21 participate in the federal Medicare program as an ambulatory
22 surgical center.

23 (B) A health care service plan registered under Chapter 2.2
24 (commencing with Section 1340) of Division 2 of the Health and
25 Safety Code or a disability insurer that contracts with licentiates
26 to provide services at alternative rates of payment pursuant to
27 Section 10133 of the Insurance Code.

28 (C) Any medical, psychological, marriage and family therapy,
29 social work, dental, *physical therapy*, or podiatric professional
30 society having as members at least 25 percent of the eligible
31 licentiates in the area in which it functions (which must include at
32 least one county), which is not organized for profit and which has
33 been determined to be exempt from taxes pursuant to Section
34 23701 of the Revenue and Taxation Code.

35 (D) A committee organized by any entity consisting of or
36 employing more than 25 licentiates of the same class that functions
37 for the purpose of reviewing the quality of professional care
38 provided by members or employees of that entity.

39 (2) "Licentiate" means a physician and surgeon, podiatrist,
40 clinical psychologist, marriage and family therapist, clinical social

1 worker, *physical therapist*, or dentist. “Licentiate” also includes
2 a person authorized to practice medicine pursuant to Section 2113.

3 (3) “Agency” means the relevant state licensing agency
4 having regulatory jurisdiction over the licentiates listed in
5 paragraph (2).

6 (4) “Staff privileges” means any arrangement under which a
7 licentiate is allowed to practice in or provide care for patients in
8 a health facility. Those arrangements shall include, but are not
9 limited to, full staff privileges, active staff privileges, limited staff
10 privileges, auxiliary staff privileges, provisional staff privileges,
11 temporary staff privileges, courtesy staff privileges, locum tenens
12 arrangements, and contractual arrangements to provide
13 professional services, including, but not limited to, arrangements
14 to provide outpatient services.

15 (5) “Denial or termination of staff privileges, membership, or
16 employment” includes failure or refusal to renew a contract or to
17 renew, extend, or reestablish any staff privileges, if the action is
18 based on medical disciplinary cause or reason.

19 (6) “Medical disciplinary cause or reason” means that aspect
20 of a licentiate’s competence or professional conduct which is
21 reasonably likely to be detrimental to patient safety or to the
22 delivery of patient care.

23 (7) “805 report” means the written report required under
24 subdivision (b).

25 (b) The chief of staff of a medical or professional staff or other
26 chief executive officer, medical director, or administrator of any
27 peer review body and the chief executive officer or administrator
28 of any licensed health care facility or clinic shall file an 805 report
29 with the relevant agency within 15 days after the effective date of
30 any of the following which take place as a result of an action of a
31 peer review body:

32 (1) A licentiate’s application for staff privileges or membership
33 is denied or rejected for a medical disciplinary cause or reason.

34 (2) A licentiate’s membership, staff privileges, or employment
35 is terminated or revoked for a medical disciplinary cause or reason.

36 (3) Restrictions are imposed, or voluntarily accepted, on staff
37 privileges, membership, or employment for a cumulative total of
38 30 days or more for any 12-month period, for a medical
39 disciplinary cause or reason.

(c) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following takes place after notice of either an investigation or the impending denial or rejection of the application for a medical disciplinary cause or reason:

(1) Resignation or leave of absence from membership, staff, or employment.

(2) The withdrawal or abandonment of a licentiate's application for staff privileges or membership.

(3) The request for renewal of those privileges or membership is withdrawn or abandoned.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with

1 respect to action attributable to the same medical disciplinary
2 cause or reason. If the Medical Board of California or a licensing
3 agency of another state revokes or suspends, without a stay, the
4 license of a physician, a peer review body is not required to file an
5 805 report when it takes an action as a result of the revocation or
6 suspension.

7 (g) The reporting required herein shall not act as a waiver of
8 confidentiality of medical records and committee reports. The
9 information reported or disclosed shall be kept confidential except
10 as provided in subdivision (c) of Section 800 and Sections 803.1
11 and 2027, provided that a copy of the report containing the
12 information required by this section may be disclosed as required
13 by Section 805.5 with respect to reports received on or after
14 January 1, 1976.

15 (h) The Medical Board of California, the Osteopathic Medical
16 Board of California, *the Physical Therapy Board of California*,
17 and the Dental Board of California shall disclose reports as
18 required by Section 805.5.

19 (i) An 805 report shall be maintained by an agency for
20 dissemination purposes for a period of three years after receipt.

21 (j) No person shall incur any civil or criminal liability as the
22 result of making any report required by this section.

23 (k) A willful failure to file an 805 report by any person who is
24 designated or otherwise required by law to file an 805 report is
25 punishable by a fine not to exceed one hundred thousand dollars
26 (\$100,000) per violation. The fine may be imposed in any civil or
27 administrative action or proceeding brought by or on behalf of any
28 agency having regulatory jurisdiction over the person regarding
29 whom the report was or should have been filed. If the person who
30 is designated or otherwise required to file an 805 report is a
31 licensed physician and surgeon, the action or proceeding shall be
32 brought by the Medical Board of California. The fine shall be paid
33 to that agency but not expended until appropriated by the
34 Legislature. A violation of this subdivision may constitute
35 unprofessional conduct by the licensee. A person who is alleged
36 to have violated this subdivision may assert any defense available
37 at law. As used in this subdivision, “willful” means a voluntary
38 and intentional violation of a known legal duty.

39 (l) Except as otherwise provided in subdivision (k), any failure
40 by the administrator of any peer review body, the chief executive

1 officer or administrator of any health care facility, or any person
 2 who is designated or otherwise required by law to file an 805
 3 report, shall be punishable by a fine that under no circumstances
 4 shall exceed fifty thousand dollars (\$50,000) per violation. The
 5 fine may be imposed in any civil or administrative action or
 6 proceeding brought by or on behalf of any agency having
 7 regulatory jurisdiction over the person regarding whom the report
 8 was or should have been filed. If the person who is designated or
 9 otherwise required to file an 805 report is a licensed physician and
 10 surgeon, the action or proceeding shall be brought by the Medical
 11 Board of California. The fine shall be paid to that agency but not
 12 expended until appropriated by the Legislature. The amount of the
 13 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
 14 violation, shall be proportional to the severity of the failure to
 15 report and shall differ based upon written findings, including
 16 whether the failure to file caused harm to a patient or created a risk
 17 to patient safety; whether the administrator of any peer review
 18 body, the chief executive officer or administrator of any health
 19 care facility, or any person who is designated or otherwise required
 20 by law to file an 805 report exercised due diligence despite the
 21 failure to file or whether they knew or should have known that an
 22 805 report would not be filed; and whether there has been a prior
 23 failure to file an 805 report. The amount of fine imposed may also
 24 differ based on whether a health care facility is a small or rural
 25 hospital as defined in Section 124840 of the Health and Safety
 26 Code.

27 (m) A health care service plan registered under Chapter 2.2
 28 (commencing with Section 1340) of Division 2 of the Health and
 29 Safety Code or a disability insurer that negotiates and enters into
 30 a contract with licentiates to provide services at alternative rates
 31 of payment pursuant to Section 10133 of the Insurance Code,
 32 when determining participation with the plan or insurer, shall
 33 evaluate, on a case-by-case basis, licentiates who are the subject
 34 of an 805 report, and not automatically exclude or deselect these
 35 licentiates.

36 *SEC. 3. Section 805.5 of the Business and Professions Code*
 37 *is amended to read:*

38 805.5. (a) Prior to granting or renewing staff privileges for
 39 any physician and surgeon, psychologist, podiatrist, *physical*
 40 *therapist*, or dentist, any health facility licensed pursuant to

1 Division 2 (commencing with Section 1200) of the Health and
2 Safety Code, or any health care service plan or medical care
3 foundation, or the medical staff of the institution shall request a
4 report from the Medical Board of California, the Board of
5 Psychology, the Osteopathic Medical Board of California, *the*
6 *Physical Therapy Board of California*, or the Dental Board of
7 California to determine if any report has been made pursuant to
8 Section 805 indicating that the applying physician and surgeon,
9 psychologist, podiatrist, *physical therapist*, or dentist has been
10 denied staff privileges, been removed from a medical staff, or had
11 his or her staff privileges restricted as provided in Section 805. The
12 request shall include the name and California license number of
13 the physician and surgeon, psychologist, podiatrist, *physical*
14 *therapist*, or dentist. Furnishing of a copy of the 805 report shall
15 not cause the 805 report to be a public record.

16 (b) Upon a request made by, or on behalf of, an institution
17 described in subdivision (a) or its medical staff, which is received
18 on or after January 1, 1980, the board shall furnish a copy of any
19 report made pursuant to Section 805. However, the board shall not
20 send a copy of a report (1) if the denial, removal, or restriction was
21 imposed solely because of the failure to complete medical records,
22 (2) if the board has found the information reported is without
23 merit, or (3) if a period of three years has elapsed since the report
24 was submitted. This three-year period shall be tolled during any
25 period the licensee has obtained a judicial order precluding
26 disclosure of the report, unless the board is finally and
27 permanently precluded by judicial order from disclosing the
28 report. In the event a request is received by the board while the
29 board is subject to a judicial order limiting or precluding
30 disclosure, the board shall provide a disclosure to any qualified
31 requesting party as soon as practicable after the judicial order is no
32 longer in force.

33 In the event that the board fails to advise the institution within
34 30 working days following its request for a report required by this
35 section, the institution may grant or renew staff privileges for the
36 physician and surgeon, psychologist, podiatrist, *physical*
37 *therapist*, or dentist.

38 (c) Any institution described in subdivision (a) or its medical
39 staff that violates subdivision (a) is guilty of a misdemeanor and

1 shall be punished by a fine of not less than two hundred dollars
2 (\$200) nor more than one thousand two hundred dollars (\$1,200).

3 *SEC. 4.* Section 2460 of the Business and Professions Code is
4 amended to read:

5 2460. There is created within the jurisdiction of the Medical
6 Board of California and its divisions the California Board of
7 Podiatric Medicine.

8 This section shall become inoperative on July 1, ~~2007~~,
9 and, as of January 1, ~~2008~~, is repealed, unless a later enacted
10 statute, which becomes effective on or before January 1, ~~2008~~,
11 deletes or extends the dates on which it becomes inoperative
12 and is repealed. The repeal of this section renders the California
13 Board of Podiatric Medicine subject to the review required by
14 Division 1.2 (commencing with Section 473).

15 ~~SEC. 2.~~

16 *SEC. 5.* Section 2486 of the Business and Professions Code is
17 amended to read:

18 2486. The division shall issue, upon the recommendation of
19 the board, a certificate to practice podiatric medicine if the
20 applicant meets all of the following requirements:

21 (a) The applicant has graduated from an approved school or
22 college of podiatric medicine and meets the requirements of
23 Section 2483.

24 (b) The applicant, within the past 10 years, has passed ~~all~~
25 ~~required parts I, II, and III of the~~ examination administered by the
26 National Board of Podiatric Medical Examiners of the United
27 States or has passed; a written examination ~~which~~ *that* is
28 recognized by the board to be the equivalent in content to the
29 examination administered by the National Board of Podiatric
30 Medical Examiners of the United States.

31 (c) The applicant has satisfactorily completed the postgraduate
32 training required by Section 2484.

33 (d) The applicant has passed within the past 10 years any oral
34 and practical examination that may be required of all applicants by
35 the board to ascertain clinical competence.

36 (e) The applicant has committed no acts or crimes constituting
37 grounds for denial of a certificate under Division 1.5
38 (commencing with Section 475).

39 (f) The board determines that no disciplinary action has been
40 taken against the applicant by any podiatric licensing authority and

1 *that* the applicant has not been the subject of adverse judgments or
2 settlements resulting from the practice of podiatric medicine that
3 the board determines constitutes evidence of a pattern of
4 negligence or incompetence.

5 *SEC. 6. Section 2496 of the Business and Professions Code is*
6 *amended to read:*

7 2496. In order to insure the continuing competence of persons
8 licensed to practice podiatric medicine, the board shall adopt and
9 administer regulations in accordance with the Administrative
10 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
11 Part 1 of Division 3 of Title 2 of the Government Code) requiring
12 continuing education of those licensees. The board shall require
13 those licensees to demonstrate satisfaction of the continuing
14 education requirements and one of the following requirements at
15 each license renewal:

16 (a) Passage of an examination administered by the board within
17 the past 10 years.

18 (b) Passage of an examination administered by an approved
19 specialty certifying board within the past 10 years.

20 (c) Current diplomate, board-eligible, or board-qualified status
21 granted by an approved specialty certifying board within the past
22 10 years.

23 (d) Recertification of current status by an approved specialty
24 certifying board within the past 10 years.

25 (e) Successful completion of an approved residency or
26 fellowship program within the past 10 years.

27 (f) Granting or renewal of current staff privileges within the
28 past five years by a health care facility that is licensed, certified,
29 accredited, conducted, maintained, operated, or otherwise
30 approved by an agency of the federal or state government or an
31 organization approved by the Medical Board of California.

32 (g) Successful completion of an approved course of study of at
33 least four weeks' duration at an approved school within the past
34 five years.

35 (h) *Passage within the past 10 years of Part III of the*
36 *examination administered by the National Board of Podiatric*
37 *Medicine Examiners of the United States.*

38 *SEC. 7. Section 2499.5 of the Business and Professions Code*
39 *is amended to read:*

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars (\$20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars (\$700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars (\$800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.

(d) The biennial renewal fee shall be nine hundred dollars (\$900). This fee shall remain in effect only until January 1, 2004, and as of that date is reduced to eight hundred dollars (\$800), unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

1 (e) The delinquency fee is one hundred fifty dollars (\$150).

2 (f) The duplicate wall certificate fee is forty dollars (\$40).

3 (g) The duplicate renewal receipt fee is forty dollars (\$40).

4 (h) The endorsement fee is thirty dollars (\$30).

5 (i) The letter of good standing fee or for loan deferment is thirty
6 dollars (\$30).

7 (j) There shall be a fee of sixty dollars (\$60) for the issuance of
8 a limited license under Section 2475.

9 (k) The application fee for certification under Section 2472
10 shall be fifty dollars (\$50). The examination and reexamination
11 fee for this certification shall be seven hundred dollars (\$700).

12 (l) The filing fee to appeal the failure of an oral examination
13 shall be twenty-five dollars (\$25).

14 (m) The fee for approval of a continuing education course or
15 program shall be one hundred dollars (\$100).

16 *SEC. 8.* Section 2602 of the Business and Professions Code is
17 amended to read:

18 2602. The Physical Therapy Board of California, hereafter
19 referred to as the board, shall enforce and administer this chapter.

20 This section shall become inoperative on July 1, 2007,
21 and, as of January 1, 2008, is repealed, unless a later enacted
22 statute, which becomes effective on or before January 1, 2008,
23 deletes or extends the dates on which it becomes inoperative
24 and is repealed.

25 The repeal of this section renders the board subject to the review
26 required by Division 1.2 (commencing with Section 473).

27 ~~*SEC. 3.*~~

28 *SEC. 9.* Section 2607.5 of the Business and Professions Code
29 is amended to read:

30 2607.5. The board may appoint a person exempt from civil
31 service who shall be designated as an executive officer and who
32 shall exercise the powers and perform the duties delegated by the
33 board and vested in him or her by this chapter.

34 This section shall become inoperative on July 1, 2007,
35 and, as of January 1, 2008, is repealed, unless a later enacted
36 statute, which becomes effective on or before January 1, 2008,
37 deletes or extends the dates on which it becomes inoperative
38 and is repealed.

39 The repeal of this section renders the board subject to the review
40 required by Division 1.2 (commencing with Section 473).

~~SEC. 4.~~

SEC. 10. *Section 2620.7 of the Business and Professions Code is amended to read:*

2620.7. (a) A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

(b) A physical therapist shall document the care actually provided to a patient in the patient record.

(c) A physical therapist shall sign the patient record legibly.

(d) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

SEC. 11. *Section 2660 of the Business and Professions Code is amended to read:*

2660. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for ~~any~~ of the following causes *unprofessional conduct, including, but not limited to:*

(a) Advertising in violation of Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist *or physical therapy assistant*. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his or her practice as a physical therapist *or physical therapy assistant*.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or

1 abetting the violating of, or conspiring to violate any provision or
2 term of this chapter or of the State Medical Practice Act.

3 (j) The aiding or abetting of any person to violate this chapter
4 or any regulations duly adopted under this chapter.

5 (k) The aiding or abetting of any person to engage in the
6 unlawful practice of physical therapy.

7 (l) The commission of any fraudulent, dishonest, or corrupt act
8 which is substantially related to the qualifications, functions, or
9 duties of a physical therapist *or physical therapy assistant*.

10 (m) Except for good cause, the knowing failure to protect
11 patients by failing to follow infection control guidelines of the
12 board, thereby risking transmission of blood-borne infectious
13 diseases from licensee to patient, from patient to patient, and from
14 patient to licensee. In administering this subdivision, the board
15 shall consider referencing the standards, regulations, and
16 guidelines of the State Department of Health Services developed
17 pursuant to Section 1250.11 of the Health and Safety Code and the
18 standards, regulations, and guidelines pursuant to the California
19 Occupational Safety and Health Act of 1973 (Part 1 (commencing
20 with Section 6300) of Division 5 of the Labor Code) for preventing
21 the transmission of HIV, hepatitis B, and other blood-borne
22 pathogens in health care settings. As necessary, the board shall
23 consult with the Medical Board of California, the California Board
24 of Podiatric Medicine, the Board of Dental Examiners of
25 California, the Board of Registered Nursing, and the Board of
26 Vocational Nursing and Psychiatric Technicians, to encourage
27 appropriate consistency in the implementation of this subdivision.

28 (n) *The commission of verbal abuse or sexual harrassment.*

29 The board shall seek to ensure that licensees are informed of the
30 responsibility of licensees and others to follow infection control
31 guidelines, and of the most recent scientifically recognized
32 safeguards for minimizing the risk of transmission of blood-borne
33 infectious diseases.

34 *SEC. 12. Section 3010 of the Business and Professions Code*
35 *is amended to read:*

36 3010. There is in the Department of Consumer Affairs a State
37 Board of Optometry in which the enforcement of this chapter is
38 vested. The board consists of nine members, three of whom shall
39 be public members.

40 Six members of the board shall constitute a quorum.

This section shall ~~become inoperative on July 1, 2003, and, as of that date, is repealed, unless a later enacted statute, which that becomes effective on or before January 1, 2004 2003, deletes or extends the dates on which it becomes inoperative and is repealed that date.~~

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 13. Section 3010.1 is added to the Business and Professions Code, to read:

3010.1. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members, three of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) This section shall remain in effect only until July 1, 2005, and, as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 14. Section 3013 of the Business and Professions Code is amended to read:

3013. (a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

(b) Vacancies occurring shall be filled by appointment for the unexpired term.

(c) The Governor shall appoint ~~one~~ three of the public members and the six members qualified as provided in Section 3011. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

(d) No board member appointed between January 1, 2000, and June 1, 2002, inclusive, shall be eligible for reappointment.

1 (e) For initial appointments made on or after January 1, 2003,
2 one of the public members appointed by the Governor shall serve
3 for a term of one year. One of the public members appointed by the
4 Governor shall serve a term of three years. The remaining public
5 member appointed by the Governor shall serve for a term of four
6 years. The public members appointed by the Senate Committee on
7 Rules and the Speaker of the Assembly shall each serve for a term
8 of four years.

9 SEC. 15. Section 3014.5 of the Business and Professions Code
10 is amended to read:

11 3014.5. The board may appoint a person exempt from civil
12 service who shall be designated as an executive officer and who
13 shall exercise the powers and perform the duties delegated by the
14 board and vested in him or her by this chapter.

15 This section shall ~~become inoperative on July 1, 2003, and, as~~
16 ~~of remain in effect only until January 1, 2004~~ 2003, and, as of that
17 date, is repealed, unless a later enacted statute, ~~which that~~
18 becomes effective on or before January 1, ~~2004~~ 2003, deletes or
19 extends the dates on which it becomes inoperative and is repealed
20 that date.

21 The repeal of this section renders the board subject to the review
22 required by Division 1.2 (commencing with Section 473).

23 SEC. 16. Section 3014.6 is added to the Business and
24 Professions Code, to read:

25 3014.6. (a) The board may appoint a person exempt from
26 civil service who shall be designated as an executive officer and
27 who shall exercise the powers and perform the duties delegated by
28 the board and vested in him or her by this chapter.

29 (b) This section shall remain in effect only until July 1, 2005,
30 and, as of that date, is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2006, deletes or extends that date.

32 SEC. 17. Section 3025.6 is added to the Business and
33 Professions Code, to read:

34 3025.6. The board may adopt regulation clarifying the level
35 of training and the level of supervision of assistants.

36 SEC. 18. Section 3710 of the Business and Professions Code
37 is amended to read:

38 3710. The Respiratory Care Board of California, hereafter
39 referred to as the board, shall enforce and administer this chapter.

This section shall become inoperative on July 1, ~~2007~~, and, as of January 1, ~~2008~~, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2008~~, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

~~SEC. 5.~~

SEC. 19. Section 3712.5 of the Business and Professions Code is repealed.

~~3712.5. The Respiratory Care Board shall report to the Legislature on or before October 1, 2000, as to what efforts it has made to rectify its budgetary problems and revise its enforcement program.~~

SEC. 20. Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall become inoperative on July 1, ~~2007~~, and, as of January 1, ~~2008~~, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2008~~, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 21. Section 3717 of the Business and Professions Code is amended to read:

3717. (a) The board, or any licensed respiratory care practitioner, enforcement staff, or investigative unit appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility or corporation providing respiratory care, treatment, or services and the respiratory care staff thereof, with respect to the respiratory care, treatment, services, or facilities provided therein, or the employment of staff providing the respiratory care, treatment, or services, and may inspect *and copy* respiratory care patient records with respect to that care, treatment, services, or facilities. The authority to make

1 inspections and to require reports as provided by this section is
2 subject to the restrictions against disclosure contained in Section
3 2225. Those persons may also inspect *and copy* employment
4 records relevant to an official investigation provided the written
5 request to inspect the records specifies the portion of the records
6 to be inspected.

7 (b) *The failure of an employer to provide documents as required*
8 *by this section is punishable by an administrative fine not to exceed*
9 *ten thousand dollars (\$10,000) per violation. This penalty shall be*
10 *in addition to, and not in lieu of, any other civil or criminal*
11 *remedies.*

12 SEC. 22. *Section 3718 of the Business and Professions Code*
13 *is amended to read:*

14 3718. The board shall issue, *deny*, suspend, and revoke
15 licenses to practice respiratory care as provided in this chapter.

16 SEC. 23. *Section 3735.3 of the Business and Professions Code*
17 *is amended to read:*

18 3735.3. An applicant for a license as a respiratory care
19 practitioner may not *be scheduled to sit for the examination unless*
20 *a* ~~until~~ verification from the program director, in a form acceptable
21 to the board, declaring ~~that~~ the applicant has ~~graduated from the~~
22 ~~completed his or her respiratory training program and has met all~~
23 ~~the educational requirements for the awarding of an Associate~~
24 ~~Degree is received in the board's office at least 15 days prior to the~~
25 ~~date of the examination. A certified copy of a certificate of~~
26 ~~completion or. An official transcript from the training program~~
27 ~~educational institution's registrar's office shall be submitted to the~~
28 board prior to the issuance of a license as a respiratory care
29 practitioner.

30 SEC. 24. *Section 3740 of the Business and Professions Code*
31 *is amended to read:*

32 3740. (a) Except as otherwise provided in this chapter, all
33 applicants for licensure under this chapter shall have ~~a high school~~
34 ~~diploma or equivalent education, and shall be a graduate of a~~
35 ~~respiratory therapy school reviewed and approved by the board~~
36 ~~completed a board approved respiratory care program and been~~
37 ~~awarded a minimum of an Associate Degree.~~

38 (b) *Notwithstanding subdivision (a), meeting the following*
39 *qualifications shall be deemed equivalent to the required*
40 *education:*

1 (1) *Enrollment in an approved baccalaureate degree program.*

2 (2) *Completion of science, general academic, and respiratory*
3 *therapy course work commensurate with the requirements for an*
4 *associate degree in subdivision (a).*

5 (c) An applicant whose application is based on a diploma
6 issued to the applicant by a foreign respiratory therapy school or
7 a certificate or license issued by another state, district, or territory
8 of the United States, shall furnish documentary evidence,
9 satisfactory to the board, that he or she has completed a respiratory
10 therapy school or a course of professional instruction equivalent
11 to that required in subdivision (a), for a respiratory care
12 practitioner applicant.

13 ~~(e)~~

14 (d) Education programs for respiratory care that are accredited
15 programs in public or private postsecondary education institutions
16 *or universities* accredited by a regional accreditation agency or
17 association recognized by the United States Department of
18 Education *and the Commission on Accreditation of Allied Health*
19 *Education Programs, as verified by the board biannually*, may be
20 considered approved programs by the board unless the board
21 determines otherwise.

22 ~~(d)~~

23 (e) A school shall give the director of a respiratory care
24 program adequate release time to perform his or her administrative
25 duties consistent with the established policies of the educational
26 institution.

27 ~~(e)~~

28 (f) *Satisfactory evidence as to educational qualifications shall*
29 *take the form of certified transcripts of the applicant's college*
30 *record mailed directly to the board from the educational*
31 *institution. However, the board may require an evaluation of*
32 *educational credentials by an evaluation service approved by the*
33 *board.*

34 (g) *At the board's discretion, it may waive its educational*
35 *requirements if evidence is presented and the board deems it as*
36 *meeting the current education requirements that will ensure the*
37 *safe and competent practice of respiratory care. This evidence may*
38 *include, but is not limited to:*

39 (1) *Work experience.*

40 (2) *Good standing of licensure in another state.*

1 (3) *Previous good standing of licensure in the State of*
2 *California.*

3 (h) Nothing contained in this section shall prohibit the board
4 from disapproving any respiratory therapy school, nor from
5 denying the applicant if the instruction received by the applicant
6 or the courses were not equivalent to that required by the board.

7 SEC. 25. *Section 3750.5 of the Business and Professions Code*
8 *is amended to read:*

9 3750.5. In addition to any other grounds specified in this
10 chapter, the board may deny, suspend, or revoke the license of any
11 applicant or license holder who has done any of the following:

12 (a) Obtained or possessed in violation of law, or except as
13 directed by a licensed physician and surgeon, dentist, or podiatrist
14 administered to himself or herself, or furnished or administered to
15 another, any controlled substances as defined in Division 10
16 (commencing with Section 11000) of the Health and Safety Code,
17 or any dangerous drug as defined in Article 7 (commencing with
18 Section 4210) of Chapter 9 of this code.

19 (b) Used any controlled substance as defined in Division 10
20 (commencing with Section 11000) of the Health and Safety Code,
21 or any dangerous drug as defined in Article 7 (commencing with
22 Section 4210) of Chapter 9 of this code, ~~or alcoholic beverages, to~~
23 ~~an extent or in a manner dangerous or injurious to himself or~~
24 ~~herself, or other person, or the public or to the extent that the use~~
25 ~~impaired his or her ability to conduct with absolute safety to the~~
26 ~~public the practice authorized by his or her license.~~

27 (c) *Applied for employment or worked in any health care*
28 *profession or environment while under the influence of alcohol.*

29 (d) Been convicted of a criminal offense involving the
30 consumption or self-administration of any of the substances
31 described in subdivisions (a) and (b), or the possession of, or
32 falsification of a record pertaining to, the substances described in
33 subdivision (a), in which event the record of the conviction is
34 conclusive evidence thereof.

35 ~~(d)~~

36 (e) Been committed or confined by a court of competent
37 jurisdiction for intemperate use of or addiction to the use of any of
38 the substances described in subdivisions (a) ~~and~~, (b), *and* (c), in
39 which event the court order of commitment or confinement is
40 prima facie evidence of that commitment or confinement.

~~(e)~~

(f) Falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

SEC. 26. Section 3750.6 of the Business and Professions Code, as added by Section 30 of Chapter 1275 of the Statutes of 1994, is repealed.

~~3750.6. (a) Every holder of a pocket license shall have readily available for immediate inspection the original pocket license forwarded to him or her. A facsimile of the license may not be used.~~

~~(b) Every applicant issued a work permit shall have available for immediate inspection the original permit forwarded to him or her. A facsimile of the work permit may not be used. Failure to do so shall constitute unauthorized practice.~~

SEC. 27. Section 3751.1 is added to the Business and Professions Code, to read:

3751.1. (a) Notwithstanding the time periods set forth in subdivision (a) of Section 3751, the holder of a conditional or probationary license issued prior to February 1, 2002, on grounds that did not include a violation of subdivision (e), (f), (h), (i), (k), (l), (n), (o), or (p) of Section 3750, a violation of Section 3752.6, or a violation of Section 3755, may submit a petition to terminate probation prior to December 31, 2003.

(b) This section shall be repealed on January 1, 2004, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends that date.

SEC. 28. Section 3753.1 of the Business and Professions Code is amended to read:

3753.1. (a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation.

(b) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section once a licensee has served his or her term of probation.

SEC. 29. Section 3758.6 of the Business and Professions Code is amended to read:

3758.6. (a) In addition to the reporting required under Section 3758, an employer shall also report to the board the name,

1 professional licensure type and number, and title of the person
2 supervising the licensee who has been suspended or terminated for
3 cause, as defined in subdivision (b) of Section 3758. If the
4 supervisor is a licensee under this chapter, the board shall
5 investigate whether due care was exercised by that supervisor in
6 accordance with this chapter. If the supervisor is a health
7 professional, licensed by another licensing board under this
8 division, the employer shall report the name of that supervisor and
9 any and all information pertaining to the suspension or termination
10 for cause of the person licensed under this chapter to the
11 appropriate licensing board.

12 *(b) The failure of an employer to make a report required by this*
13 *section is punishable by an administrative fine not to exceed ten*
14 *thousand dollars (\$10,000) per violation.*

15 *SEC. 30. Section 3761 of the Business and Professions Code*
16 *is amended to read:*

17 3761. (a) No person may represent himself or herself to be a
18 respiratory care practitioner without a license granted under this
19 chapter, except as otherwise provided in this chapter.

20 (b) No person or corporation shall knowingly employ a person
21 who holds himself or herself out to be a respiratory care
22 practitioner without a license granted under this chapter, except as
23 otherwise provided in this chapter.

24 ~~(c) At the discretion of the board, violation of subdivision (a)~~
25 ~~shall be punishable by issuance of an administrative citation and~~
26 ~~assessment of an administrative fine of one thousand dollars~~
27 ~~(\$1,000).~~

28 *SEC. 31. Section 3766 is added to the Business and*
29 *Professions Code, to read:*

30 3766. (a) *The board may issue a citation containing an order*
31 *of abatement and civil penalties against a person who acts in the*
32 *capacity of, or engages in the business of, a respiratory care*
33 *practitioner in this state without having a license in good standing*
34 *issued pursuant to this chapter.*

35 (b) *The board may issue a citation containing an order of*
36 *abatement and civil penalties against a person employing or*
37 *contracting with a person who acts in the capacity of, or engages*
38 *in the business of, a respiratory care practitioner in this state*
39 *without having a license in good standing issued pursuant to this*
40 *chapter.*

1 SEC. 32. Section 3767 is added to the Business and
2 Professions Code, to read:

3 3767. (a) The board shall issue a citation to a person and to
4 his or her employer or contractor, if, upon inspection or
5 investigation, either upon complaint or otherwise, the following
6 conditions are met:

7 (1) The board has probable cause to believe that the person is
8 acting in the capacity of, or engaging in the practice of, a
9 respiratory care practitioner in this state without having a license
10 in good standing issued pursuant to this chapter.

11 (2) The person is not otherwise exempted from the provisions
12 of this chapter.

13 (b) Each citation issued pursuant to subdivision (a) shall meet
14 all of the following requirements:

15 (1) Be in writing and describe with particularity the basis of the
16 citation.

17 (2) Contain an order of abatement and an assessment of a civil
18 penalty in an amount not less than two hundred dollars (\$200) nor
19 more than fifteen thousand dollars (\$15,000).

20 (c) A person served with a citation may appeal to the board
21 within 15 calendar days after service of the citation with respect
22 to any of the following:

23 (1) The violations alleged.

24 (2) The scope of the order of abatement.

25 (3) The amount of the civil penalty assessed.

26 (d) If, within 15 calendar days after service of the citation, the
27 person cited fails to notify the board that he or she intends to
28 appeal the citation, the citation shall be deemed a final order of the
29 board and not subject to review by any court or agency. The board
30 may extend the 15-day period for good cause.

31 (e) (1) If a person cited under this section notifies the board in
32 a timely manner that he or she intends to contest the citation, the
33 board shall afford an opportunity for a hearing.

34 (2) The board shall thereafter issue a decision, based on
35 findings of fact, affirming, modifying, or vacating the citation, or
36 directing other appropriate relief.

37 (f) With the approval of the board, the executive officer shall
38 prescribe procedures for the issuance and appeal of a citation and
39 procedures for a hearing under this section. The board shall adopt
40 regulations covering the assessment of a civil penalty that shall

1 *give due consideration to the gravity of the violation, and any*
2 *history of previous violations.*

3 *(g) The sanctions authorized under this section shall be*
4 *separate from and in addition to, any other civil or criminal*
5 *remedies.*

6 *SEC. 33. Section 3768 is added to the Business and*
7 *Professions Code, to read:*

8 *3768. (a) After the exhaustion of the review procedures*
9 *provided for in Section 3767, and as adopted by regulation, the*
10 *board may apply to the appropriate superior court for both of the*
11 *following:*

12 *(1) A judgment in the amount of the civil penalty.*

13 *(2) An order compelling the cited person to comply with the*
14 *order of abatement.*

15 *(b) The application described in subdivision (a) shall include*
16 *a certified copy of the final order of the board.*

17 *(c) The application described in subdivision (a) shall constitute*
18 *a sufficient showing to warrant the issuance of the judgment and*
19 *order.*

20 *(d) The board may employ collection agencies or other*
21 *methods in order to collect civil penalties.*

22 *SEC. 34. Section 3770 of the Business and Professions Code*
23 *is amended to read:*

24 *3770. The department shall keep a record of its proceedings*
25 *under this chapter, and a register of all persons licensed under it.*
26 *The register shall show the name of every living licensed*
27 *respiratory care practitioner, his or her last known place of*
28 *residence, or address of record, and the date and number of his or*
29 *her certificate as a respiratory care practitioner. The department*
30 *shall, once every two years, compile a list of respiratory care*
31 *practitioners authorized to practice respiratory care in the state.*
32 *Any interested person is entitled to obtain a copy of that list upon*
33 *application to the department and payment of such amount as may*
34 *be fixed by the department, which amount shall not exceed the cost*
35 *of the list so furnished.*

36 *SEC. 35. Section 3774 of the Business and Professions Code*
37 *is amended to read:*

38 *3774. On or before the birthday of a licensed practitioner in*
39 *every other year, following the initial licensure, the board shall*
40 *mail to each practitioner licensed under this chapter, at the latest*

address furnished by the licensed practitioner to the executive officer of the board, a notice stating the amount of the renewal fee and the date on which it is due. The notice shall state that failure to pay the renewal fee on or before the due date and submit evidence of compliance with ~~Section 3719~~ *Sections 3719 and 3773* shall result in expiration of the license.

Each license not renewed in accordance with this section shall expire but may within a period of three years thereafter be reinstated upon payment of all accrued and unpaid renewal fees and penalty fees required by this chapter. The board may also require submission of proof of the applicant's qualifications, except that during the three-year period no examination shall be required as a condition for the reinstatement of any expired license that has lapsed solely by reason of nonpayment of the renewal fee.

SEC. 36. Section 3775.1 of the Business and Professions Code is repealed.

~~3775.1. (a) The fee for the approval of respiratory therapy schools shall be established by the board at no more than the actual cost to the board.~~

~~(b) The fee for the renewal or approval of respiratory therapy schools, who certify on forms provided by the board that no substantive changes have occurred, shall be established by the board at no more than the actual cost to the board, to be paid on a biennial basis.~~

~~(c) The fee for the inspection or reinspection of a respiratory therapy school for the purposes of approval, reapproval, or the investigation of a complaint of noncompliance shall be established by the board at an amount to recover the actual costs incurred by the board.~~

~~(d) The review fee for the coursework and grades of an official transcript of an applicant shall be established by the board at no more than the actual cost to the board.~~

SEC. 37. Section 3777 of the Business and Professions Code is amended to read:

3777. Where an applicant is issued a license to practice respiratory care, and it is later discovered that all required fees have not been paid, the ~~certificate~~ *license* shall not be renewed or reinstated unless all past and current required fees have been paid.

SEC. 38. Section 123105 of the Health and Safety Code is amended to read:

- 1 123105. As used in this chapter:
- 2 (a) “Health care provider” means any of the following:
- 3 (1) A health facility licensed pursuant to Chapter 2
- 4 (commencing with Section 1250) of Division 2.
- 5 (2) A clinic licensed pursuant to Chapter 1 (commencing with
- 6 Section 1200) of Division 2.
- 7 (3) A home health agency licensed pursuant to Chapter 8
- 8 (commencing with Section 1725) of Division 2.
- 9 (4) A physician and surgeon licensed pursuant to Chapter 5
- 10 (commencing with Section 2000) of Division 2 of the Business and
- 11 Professions Code or pursuant to the Osteopathic Act.
- 12 (5) A podiatrist licensed pursuant to Article 22 (commencing
- 13 with Section 2460) of Chapter 5 of Division 2 of the Business and
- 14 Professions Code.
- 15 (6) A dentist licensed pursuant to Chapter 4 (commencing with
- 16 Section 1600) of Division 2 of the Business and Professions Code.
- 17 (7) A psychologist licensed pursuant to Chapter 6.6
- 18 (commencing with Section 2900) of Division 2 of the Business and
- 19 Professions Code.
- 20 (8) An optometrist licensed pursuant to Chapter 7
- 21 (commencing with Section 3000) of Division 2 of the Business and
- 22 Professions Code.
- 23 (9) A chiropractor licensed pursuant to the Chiropractic
- 24 Initiative Act.
- 25 (10) A marriage, family, and child counselor licensed pursuant
- 26 to Chapter 13 (commencing with Section 4980) of Division 2 of
- 27 the Business and Professions Code.
- 28 (11) A clinical social worker licensed pursuant to Chapter 14
- 29 (commencing with Section 4990) of Division 2 of the Business and
- 30 Professions Code.
- 31 (12) *A physical therapist licensed pursuant to Chapter 5.7*
- 32 *(commencing with Section 2600) of Division 2 of the Business and*
- 33 *Professions Code.*
- 34 (b) “Mental health records” means patient records, or discrete
- 35 portions thereof, specifically relating to evaluation or treatment of
- 36 a mental disorder. “Mental health records” includes, but is not
- 37 limited to, all alcohol and drug abuse records.
- 38 (c) “Patient” means a patient or former patient of a health care
- 39 provider.



(d) “Patient records” means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. “Patient records” includes only records pertaining to the patient requesting the records or whose representative requests the records. “Patient records” does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. “Patient records” does not include information contained in aggregate form, such as indices, registers, or logs.

(e) “Patient’s representative” or “representative” means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) “Alcohol and drug abuse records” means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

SEC. 39. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.